



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON I. BROWN, DPA
ACTING DIRECTOR



Date Mailed: November 21, 2023
MOAHR Docket No.: 23-006959
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 16, 2023. The Petitioner was self-represented. The Department of Health and Human Services (Department) failed to appear for the hearing.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) benefits application?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner submitted an application for FAP benefits.
2. The Department asked Petitioner to verify income.
3. Petitioner submitted verification of her social security income on a timely basis.
4. The Department denied Petitioner's application for failure to verify pension income.
5. Petitioner requested a hearing disputing the denial of her application indicating that she does not have pension income.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Department denied Petitioner's application for FAP benefits indicating she failed to verify income, specifically a pension. Petitioner denies receipt of a pension and indicates she timely submitted verification of her only income, her social security benefits. Pursuant to policy the Department is required to seek verification of income at application. BAM 130 (January 2022), p. 1; BEM 500 (April 2022); BEM 503 (October 2022). However, the Department is only required to verify income that Petitioner actually has and not income that she does not have. Since the Department did not appear for the hearing to explain why it requested verification of a pension income, the Department has not met its burden of proof.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's application for FAP benefits for failure to verify income.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reprocess Petitioner's application for FAP benefits;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously receive; and,

3. Notify Petitioner in writing of its decision.

AM/mp


Amanda M. T. Marler
Administrative Law Judge

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via-Electronic Mail :

Interested Parties

MDHHS-Wayne-15-Greydale-Hearings
N. Denson-Sogbaka
B. Cabanaw
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner


MI